

Application No.: 10/674,653

Dated: June 15, 2009

Amendment

Amendments to the Drawings:

In view of the Examiner's objection, Applicants submit herewith new Fig. 12, to be inserted following Fig. 11.

In Fig. 12, the distal end of an elongates arm having a ball, and the adhesive pad having a socket, is shown.

Attachments:

Fig. 12 is attached as an appendix hereto.

Application No.: 10/674,653

Dated: June 15, 2009

Amendment

REMARKS

Claims 3-6, 8, 14, 21, 22, and 27-50 are pending. Claims 3, 4, 14, 21, 22, 27-37, 43-45, 49 and 50 are withdrawn as being drawn to non-elected subject matter. The amendment to claim 8 is submitted in order to address the formal rejection issued by the Examiner in the outstanding Office Action of February 13, 2009. The amendment to the specification is submitted in order to describe support for new Fig. 12, as required by the Examiner, which finds basis at page 2, line 31, bridging to page 3, line 4. No new matter has been incorporated into the application as a result of the amendment made herein.

Objection to the Drawings

At page 2 of the Office Action, the Examiner has objected to the drawings as failing to show the distal end of the elongate arm having a ball, and the adhesive pad having a socket.

Applicants submit herewith new Fig. 12, illustrating such embodiment, which is fully described at page 2, line 31, bridging to page 3, line 4 of the present specification.

Rejection under 35 U.S.C. §112

Claims 8 and 38 stand rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

The Examiner's attention is directed to page 2, line 32, bridging to page 3, line 4, wherein Applicants state:

The adhesive pad may have a first adhering surface and a second surface having a socket mechanism that communicates with a ball on the distal end of each of the tongs, and the adhesive pad is optionally rotatable around the ball. Alternatively, the second surface of the adhesive pad may have a ball and the distal end of each of the tongs may have a socket mechanism. (Emphasis added).

It is respectfully submitted that the rejected claims comply with the written description requirement of the patent law. Withdrawal of the rejection is requested.

Rejection under 35 U.S.C. §112

Claims 8 and 38 stand rejected under 35 U.S.C. §112, first paragraph as non-enabling as to an adhesive pad rotating around a ball of a ball and socket joint. Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

The Examiner's attention is directed to page 2, line 32, bridging to page 3, line 4, wherein Applicants state:

The adhesive pad may have a first adhering surface and a second surface having a socket mechanism that communicates with a ball on the distal end of each of the tongs, and the adhesive pad is optionally rotatable around the ball. Alternatively, the second surface of the adhesive pad may have a ball and the distal end of each of the tongs may have a socket mechanism. (Emphasis added).

It is respectfully submitted that the specification enables both embodiments of the ball and socket joint. Withdrawal of the rejection is requested.

Application No.: 10/674,653

Dated: June 15, 2009

Amendment

Rejection under 35 U.S.C. §103(a) over Taylor et al.
in view of Coffey

Claims 5, 6, 8, 38-42 and 46-48 stand rejected under 35 U.S.C. §103(a) as obvious over Taylor et al. (U.S. Patent No. 6,394,951) in view of Coffey (U.S. Patent No. 2,003,629). Applicants traverse this basis for rejection and respectfully request reconsideration and withdrawal thereof.

The deficiencies of Taylor et al. were discussed at length in Applicants' previous response of August 23, 2007, and in their Request for Pre-Appeal Brief Conference filed September 17, 2008, and are reiterated herein.

In the present Office Action, the Examiner recognizes that Taylor et al. fail to disclose or suggest first and second socket joints having a rotatable connection (Office Action, page 5).

The Examiner then points to Coffey and states:

Coffey teaches a rotatable connection between the elongate arms and the pad, and the adhesive pad is rotatable around the ball about at least two axes (slight rotation is possible along two axes). It would have been obvious to one of ordinary skill in the art to use the rotatable connection of Coffey with the device of Taylor as this allows smooth action and aids in the use of the jaws (page 1, ll. 47-55, page 2, col. 1, ll. 1-3).

Applicants traverse the Examiner's findings and conclusion for several reasons.

First, it is respectfully submitted that Coffey is non-analogous art as to Taylor et al. Coffey discloses a battery terminal cleaning tool. In contrast, Taylor

Application No.: 10/674,653

Dated: June 15, 2009

Amendment

et al. disclose a surgical instrument for coronary artery bypass surgery. Applicants respectfully submit that the cited reference fields-of-use are so far removed, one from the other, that one skilled in the art (whichever art that might be) would not have looked to one reference to modify the other. Withdrawal of the rejection is requested on this basis alone.

Further, in view of the extremely delicate nature of the surgery to be performed as set forth in Taylor et al., i.e. open heart surgery, the skilled artisan would not have been motivated to look to Coffey, directed to an automotive tool, with any expectation of success in improving the Taylor et al. device. Additional axes of movement would likely be detrimental to the surgical procedure to be performed with the Taylor et al. device, where the utmost accuracy in positioning would be required.

Withdrawal of the rejection is requested.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-2478 (13926).

In view of the foregoing, it is respectfully submitted that the present claims are in condition for allowance. Prompt notification of allowance is respectfully solicited.

If the Examiner has any questions or wishes to discuss this application,

Application No.: 10/674,653

Dated: June 15, 2009

Amendment

the Examiner is invited to contact the undersigned representative at the number set forth below.

Respectfully submitted,

Date: June 15, 2009



Michael J. Mlotkowski
Attorney for Applicants
Registration No. 33,020
(703) 584-3270

POST OFFICE ADDRESS to which correspondence is to be sent:

Roberts, Mlotkowski Safran & Cole
P.O. Box 10064
McLean, VA 22102

Attachment: Fig. 12 (New Sheet)